



The Commonwealth of Massachusetts

Department of Revenue

Leveeett Saltonstall Building,

100 Cambridge Street, Boston 02204

L. JOYCE HAMPER
COMMISSIONER

January 4, 1982

You inquire whether the Massachusetts sales and use taxes apply to "demurrage" charges for retention of storage cylinders beyond a 30-day free use period.

General Laws Chapter 64H, Section 2 imposes an excise on sales at retail of tangible personal property in Massachusetts by any vendor. Chapter 64I, Section 2 imposes an excise on the storage, use or other consumption in Massachusetts of tangible personal property purchased from any vendor for storage, use or other consumption in Massachusetts. For both sales and use tax purposes, "sale" is defined as including

"any transfer of title or possession, or both, exchange, barter, lease, rental, conditional or otherwise, of tangible personal property for a consideration, in any manner or by any means whatsoever."
G.L. c. 64H, s. 1(12)(a); c. 64I, s. 1(1).

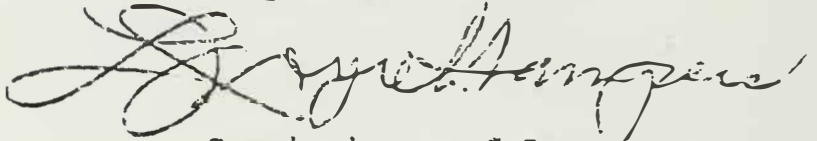
Section 1(4) of Chapter 64I defines "storage" as

"any keeping or retention in the commonwealth for any purpose except sale in the regular course of business or subsequent use solely outside of the commonwealth of tangible personal property purchased from a vendor."

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Based on the foregoing, it is ruled that demurrage charges for retention of storage cylinders beyond a 30-day free use period are subject to the Massachusetts sales and use taxes.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Roy C. Hanger". The signature is fluid and cursive, with a large initial "R" and "H".

Commissioner of Revenue

LJH:JXD:mf

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